

1
2
3
4
5
6
7 UNITED STATES DISTRICT COURT
8 DISTRICT OF OREGON
9 PORTLAND DIVISION
10

11 JAMES ARTHUR ROSS,

No. 3:09-cv-01530-HU

12 Plaintiff,

OPINION AND ORDER

13 vs.
14

15 MARK NOOTH, et al.,

16 Defendants.

17 James Arthur Ross
18 State ID No. 12599830
19 Eastern Oregon Correctional Institute
2000 Westgate
Pendleton, OR 97801

20 Plaintiff Pro Se

21 John R. Kroger
22 Attorney General
23 Michael R. Washington
24 Senior Assistant Attorney General
25 Department of Justice
1162 Court Street NE
Salem, OR 97301-4096
Telephone: (503) 947-4700
Facsimile: (503) 947-4791

26 Of Attorneys for Defendants
27
28

1 HUBEL, J.,

2 In this 42 U.S.C. § 1983 case, plaintiff James Arthur Ross
3 ("Plaintiff"), an inmate at the Snake River Correctional
4 Institution ("SCRI") in Ontario, Oregon, filed a document entitled
5 "Plaintiff's Motion in Opposition to the Defendants' Response to
6 Plaintiff's Second Request for Production" on August 1, 2012.
7 Eight days later, on August 9, 2012, Plaintiff filed a motion for
8 extension of time to respond to Defendants' currently pending
9 motion for summary judgment. Because the Court construed
10 Plaintiff's August 1 filing as a motion to compel production, a
11 telephone status conference was held August 23, 2012, in order to
12 discuss the parties' respective positions on the matter. At that
13 hearing, Defendants were given until August 31, 2012 to respond to
14 Plaintiff's motion to compel and Plaintiff's motion for an
15 extension of time was granted in part: "The [C]ourt will extend the
16 deadline to a date certain after its ruling on [P]laintiff's motion
17 to compel." (Record of Proceedings and Order (Docket No. 109) at
18 1.)

19 Having reviewed the motion to compel, as well as all materials
20 filed in support and in opposition thereto, the Court **DENIES**
21 Plaintiff's motion (Docket No. 104) to compel production of
22 documents. Plaintiff's August 1 motion concerns Request No. 6 of
23 his second request production, which sought: "Copies of the
24 ventilation, heating and air conditioning ducts for Snake River
25 Correctional Institution. More specifically, for complexes 1, 2,
26 3 and segregation." (Defs.' Resp. (Docket No. 111) at 2.)
27 Plaintiff seeks the blueprints of the heating, ventilation, and air
28 conditioning ("HVAC") system at SRCI to prove that Defendants

1 retaliated against him when they moved him from honor housing to
2 complex three based on Plaintiff's complaint of fumes in the honor
3 housing unit, because the move would have subjected him to the same
4 fumes he experienced in honor housing (i.e., Plaintiff believes
5 there is only one HVAC system for the main institution complex and
6 the honored housing complex at SRCI).

7 Defendants objected to Request No. 6 "on the grounds it is
8 overbroad, irrelevant, and producing the confidential material
9 requested would pose a security threat to the institution." (*Id.*)
10 The Court agrees that the request is overbroad based on the purpose
11 for which it is sought and that production of such material could
12 pose a serious security threat at SRCI. See *Procunier v. Superior*
13 *Court*, 35 Cal. App. 3d 211, 212 (1973). Thus, I am denying
14 Plaintiff's motion to compel; however, I will treat Paragraph 4 of
15 the Declaration of Jamie Miller filed by Defendants, which
16 indicates that there are "two entirely separate HVAC systems for
17 the two complexes" at issue, as an answer denying an interrogatory
18 from Plaintiff asking if the HVAC system supplying air to the honor
19 housing unit and to complex three (3) are one in the same such that
20 inmates in each facility breathe air from the same source.

21 Plaintiff must respond to Defendants' currently pending motion
22 for summary judgment by October 15, 2012, and Defendants' reply
23 memorandum is due by November 1, 2012.

24 IT IS SO ORDERED.
25
26
27
28

1 Dated this 7th day of September, 2012.

2 /s/ Dennis J. Hubel

3
4 _____
5 Dennis J. Hubel
6 United States Magistrate Judge
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28